



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/761,669

01/21/2004

Byron J. Masterson

MASJ.

3397

7590

03/14/2005

William B. Kircher
SHOOK, HARDY & BACON L.L.P.
One Kansas City Place
2555 Grand Ave.
Kansas City, MO 64108-2613

EXAMINER

STULTZ, JESSICA T

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,669

Applicant(s)

MASTERSON, BYRON J.

Examiner

Jessica T. Stultz

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0104.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 7-8, and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Menezes et al.

Regarding claim 1, Menezes et al discloses eyewear for providing a clear, magnified, wide field of view comprising (Shown in Figures 1a, 2a, 4a, and 5a, wherein the lens is thicker in the middle and therefore has positive magnifying power to provide a wide field of view): a pair of lens elements (Column 2, lines 8-15, wherein the lenses are used as spectacle lenses, i.e. as a pair of lenses), each of the lens elements having a spherically shaped front surface, the front surface having a front surface center and a front surface radius, and a spherically shaped back surface, the back surface having a back surface center and a back surface radius (Column 4, lines 27-34 and Column 7, line 60-Column 8, line 13, wherein the surfaces are spherical and have centers and radii, Figures 1a-b, 2a-b, 4a-b, and 5a-b), the front surface and the back surface defining a thickness therebetween, the lens element further having a nasal edge, a temporal edge, and an optical node (Shown in Figures 1a, 2a, 4a, and 5a, wherein the lens has a thickness, a nasal edge, a temporal edge, and an optical node), the lens element further having a positive vertex power (Shown in Figures 1a, 2a, 4a, and 5a, wherein the lens is thicker in the middle and

Art Unit: 2873

therefore has positive power); and wherein the front surface center is offset from the back surface center so that the thickness tapers from the thickest portion of the lens element in the direction of both the nasal edge and the temporal edge (Column 3, lines 6-33 and Column 5, lines 23-46 and shown in Figures 1a-b, wherein the centers of the front and back surfaces "16" and "17" are offset from each other and wherein the thickness of the lens tapers from the thickest, middle portion of the lens to the nasal and temporal edges); and wherein each of the lens elements are oriented in an as worn portion so that an axis drawn through the front surface center and the back surface center diverges from a person's normal line of sight toward the temporal edge and so that the optical node is positioned outside of the person's normal line of sight and toward the temporal edge (Column 3, line 5-Column 4, line 6 and Column 5, lines 23-55 and shown in Figures 1a-b, wherein the centers are misaligned and therefore the optical node is outside of the person's normal line of sight, i.e. the optical center of the lens, shown in Figures 1b and 4b).

Regarding claim 2, Menezes et al further discloses that the eyewear is located in a frame, the frame supporting and orienting the pair of lens elements (Column 2, lines 8-15, wherein the lenses are spectacles lenses and are therefore held in a frame).

Regarding claim 7, Menezes et al further discloses that an axis drawn through the front surface center and the back surface center is offset from the person's normal line of sight by an angle in the range of 15-35 degrees (Column 3, line 58-Column 4, line 6 and Column 4, lines 36-47, wherein the misalignment of the center ranges between 5-30 degrees).

Regarding claim 8, Menezes et al further discloses that the axis is offset by an angle of 20.5 degrees (Column 3, line 58-Column 4, line 6 and Column 4, lines 36-47, wherein the misalignment of the center ranges between 5-30 degrees).

Regarding claim 10, Menezes et al further discloses that the vertex power is greater than +4 diopters (Column 4, line 60-Column 5, line 3 and Column 5, lines 23-46 and Column 6, lines 18-32, wherein the lenses have powers that are greater than +4 diopters, Figures 1a-b and 2a-b).

Regarding claim 11, Menezes et al further discloses that the vertex power is +4.45 diopters (Column 4, line 60-Column 5, line 3 and Column 5, lines 23-46 and Column 6, lines 18-32, wherein the lenses have powers ranging between 0.25 to 8.50 diopters, wherein +4.45 falls within that range, Figures 1a-b and 2a-b).

Regarding claim 12, Menezes et al discloses eyewear as shown above, but does not specifically disclose that the resulting total range of vision for each lens element is about 70 degrees to the side of straight forward looking. However, it is inherent from Menezes et al that the resulting total range of vision for each lens element is about 70 degrees to the side of straight forward looking, this being reasonably based upon the misalignment of the centers ranging between 5-30 degrees, wherein when the misalignment is 30 degrees, the total range of vision would inherently be about 70 degrees (Column 3, line 58-Column 4, line 6 and Column 4, lines 36-47, wherein the misalignment of the center ranges between 5-30 degrees).

Regarding claim 13, Menezes et al further discloses that the lens elements are spaced apart by a distance in the range of about 10-25 mm (Column 3, line 58-Column 4, line 26, wherein the misalignment is about 10 mm, falling within the claimed range of 10-25 mm).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menezes et al in view of Monnoyeur et al.

Regarding claims 3-6 and 9, Menezes et al discloses eyewear as shown above, but does not specifically disclose that the front surface radius is in the range of 35-50 mm, preferably about 43 mm, or that the back surface radius is between 50-70 mm, preferably about 60 mm, or that that lens is made of polycarbonate plastic. Monnoyeur et al teaches of a polycarbonate lens with an off-axis center, specifically wherein the radius of the first and second surfaces fall within the claimed range (Column 4, lines 41-50 and Column 5, lines 15-32, wherein the lens is made of polycarbonate and has a diameter between 50-90 mm, wherein the radii of 43 mm would fall in the claimed ranges and Table 1A and 1B, wherein the radius of about 60 mm, i.e. 65 mm, is shown) for the purpose of providing satisfactory optical correction over the entire lens (Column 3, lines 22-29). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the lens of Menezes et al to have surfaces with radii that fall within the claimed ranges and for the lens to be made of polycarbonate plastic since Monnoyeur et al teaches of a polycarbonate lens with an off-axis center, specifically wherein the radius of the first and second surfaces fall within the claimed range for the purpose of providing satisfactory optical correction over the entire lens.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Menezes et al in view of Reichow et al.

Regarding claim 14, Menezes et al discloses eyewear as shown above, but does not specifically disclose lens elements are spaced apart by about 18 mm. Reichow et al teaches of decentered eyewear wherein the centers are misaligned by about 18 mm, for the purpose of eliminating prismatic deviations along the normal light of sight (Column 15, line 58-Column 16, line 13, wherein the centers of the lens are misaligned by 18.5 mm, i.e. about 18 mm). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the lens elements to be spaced apart by about 18 mm since Reichow et al teaches of decentered eyewear wherein the centers are misaligned by about 18 mm, for the purpose of eliminating prismatic deviations along the normal light of sight.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shirayanagi, Oyama et al, and Garneau are cited as having some similar structure to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T. Stultz whose telephone number is (571) 272-2339.

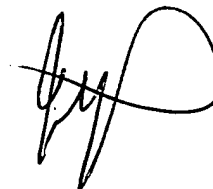
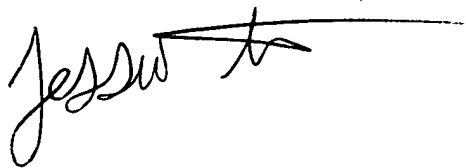
The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2873

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica Stultz
Patent Examiner
AU 2873
March 4, 2005



JORDAN SCHWARTZ
PRIMARY EXAMINER